who had been honorably discharged and who had not previously received a bounty for enlisting. *Held*, that such a statute would be constitutional. *In re Opinion of the Justices*, 98 N. E. 338 (Mass.).

State pensions and other gratuities to veterans of the federal army as a reward for past services have usually been held invalid as expenditures which are not for a public purpose. *Mead* v. *Inhabitants of Acton*, 139 Mass. 341, 1 N. E. 413; *Opinion of the Justices*, 186 Mass. 603, 72 N. E. 95. *Contra*, *State ex rel. Bates* v. *Trustees of Richland Township*, 20 Oh. St. 362; *Brodhead* v. *City of Milwaukee*, 19 Wis. 624. The Connecticut case would be within these authorities even were the benefits limited to persons who enlisted as a part of Connecticut's quota. On the other hand, it has been held within the legislative power to authorize bounties during the war to induce volunteers to enlist. *Booth* v. *Town of Woodbury*, 32 Conn. 118; *Speer* v. *School Directors, etc. of Blairsville*, 50 Pa. St. 150. *Cf. Trustees of Cass Township* v. *Dillon*, 16 Oh. St. 38. The reasoning seems to be that the latter subserves public ends by avoiding a possible indiscriminate draft, while the former has but a remote tendency to cause voluntary enlistment in the future. The opinion on the proposed statute in Massachusetts indicates a change in the attitude of that court. Though "a testimonial for meritorious service," such a gratuity would in fact be but an equalization of bounties, which the court had hitherto condemned. *Opinion of the Justices*, 190 Mass. 611, 77 N. E. 820. The legislative tendency toward private benefactions at public expense makes necessary the strict enforcement of the fundamental principle that taxation must be for a public purpose. See 12 HARV. L. REV. 316.

TORTS — CONTRIBUTORY NEGLIGENCE — STOP, LOOK, AND LISTEN RULE. — The plaintiff was injured at a crossing by one of the defendant's trains. He could have seen the train in time to stop had he looked before driving on the tracks. A verdict for the defendant was directed. *Held*, that such direction is proper. *Joyce* v. *West Jersey and Seashore R. Co.*, 83 Atl. 889 (N. J.).

The plaintiff's intestate, while crossing a highway, was killed by the defendant's automobile. The court refused to instruct that a pedestrian was under a duty to look sideways before crossing. *Held*, that the refusal was correct. *Adler* v. *Martin*, 59 So. 597 (Ala.).

The first case follows the Pennsylvania rule that a person about to cross a railroad is bound to use his eyes and ears in order to be considered free from contributory negligence. *Coppuck* v. *Philadelphia, etc. R. Co.*, 191 Pa. 172, 43 Atl. 70; *Pennsylvania R. Co.* v. *Righter*, 42 N. J. L. 180. But this view is nowhere supported when the plaintiff is only crossing a street. *Corona Coal and Iron Co.* v. *White*. 152 Ala. 413, 48 So. 362; *Barbour* v. *Shebor*, 58 So. (Ala.) 276. However, decisions holding a binding charge proper may be supported in either case if properly based on the general rule of law that where the facts plainly show contributory negligence, it is proper for the court to direct a verdict for the defendant. *Allen* v. *Boston and Maine R. Co.*, 197 Mass. 298, 83 N. E. 863. In many cases a failure to look and listen would be such obvious negligence as to warrant such direction. Most jurisdictions have found this adequate and have refused to make either railroad-crossing or highway cases an exception to the general rule. *Allyn* v. *Boston and Albany R. Co.*, 105 Mass. 77; *Beirne* v. *Lawrence, etc. Ry. Co.*, 197 Mass. 173, 83 N. E. 359. The hard and fast rule, it is submitted, arbitrarily makes the plaintiff's case more difficult than it justly should be. *Terre Haute and Indianapolis R. Co.* v. *Voelker*, 129 Ill. 540, 22 N. E. 20.

WITNESSES — PRIVILEGE AGAINST SELF-INCRIMINATION — APPLICATION TO COMPULSORY STATEMENTS OUT OF COURT. — The defendant was arrested for violating a statute providing that an operator of a motor vehicle who injures persons or property must give his name, residence, and license number to the

police. The Missouri constitution provides that "no person shall be compelled to testify against himself in a criminal cause." *Held*, that the statute is constitutional. *Ex parte Kneedler*, 147 S. W. 983 (Mo., Sup. Ct.).

For a discussion of the principles involved, see 24 HARV. L. REV. 570.

BOOK REVIEWS.

SEDGWICK ON DAMAGES. Ninth Edition, Revised, Rearranged, and Enlarged by Arthur G. Sedgwick and Joseph H. Beale. In four volumes. pp. xxxii, 3400. Baker, Voorhis and Company. 1912.

The ninth edition of Sedgwick on Damages will be welcomed as the satisfaction of a long-felt desire. It would be difficult to overestimate the importance of the improvements and additions to be found in the new edition, or to overpraise the scholarly thoroughness with which the reconstruction (for such it is) of this work has been made.

The eighth edition appeared more than twenty years ago, and was itself a reconstruction of the original treatise. It is fortunate that the skill and learning of the same editors were available for the preparation of the ninth edition, which is, in our opinion, the most scientific and complete book on the subject of Damages. It is not possible within reasonable limits to specify all the improvements in this edition, but a few of them may be mentioned by way of illustration of the character of the work.

Many of the courts of this country deny the right of action for damages consequent upon fright caused by negligence when there has been no bodily impact, some apparently on the ground that if such damages are allowed the courts will be kept too busy, others on the ground that such claims are too easily feigned. In Chapter II the editors have disposed of this erroneous doctrine by pointing out its origin in a misconception of the *dictum* of Lord Wensleydale in Lynch *v.* Knight[1] and also by an admirable discussion of the fundamental mistake in the reasoning of the courts which deny the right of action in this class of cases.

Chapter VII, on Proximate and Remote Damages, clears up in a satisfactory manner the confusion and uncertainty in the use of the words "consequential," "proximate," and "remote," and makes the legal distinction between "proximate" and "remote" a practical, not a logical one.

In this chapter occurs the only instance of difference of opinion between the two editors, who state in the preface that

> "in reflecting on the extent of the field covered, it is a satisfaction to find that the most recent study of the subject by one editor is confirmed at every point but one by the conclusions of the other, while this point is one on which the courts have for fifty years been in conflict."

Mr. Sedgwick attempts to reconcile the early leading cases on the question whether negligent delay by a carrier is the legal cause of a loss consequent upon exposure to such operations of nature as are called acts of God or upon a risk excepted in the contract, and to show that the conflict on this subject in many succeeding cases is due to the mistaken idea that the decisions in the early cases were in conflict, and he declares himself in favor of the New York, and opposed to the Massachusetts, rule. Professor Beale dissents from this view "in every particular."[2] Such independence is quite refreshing, but we regret that Professor Beale did not add to the interest naturally excited by his candid statement of disagreement, by pointing out the errors of Mr. Sedgwick's view.

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[1] 9 H. L. Cas. 577, 598.

[2] P. 207, n. 28.